

REMARKS

The Office Action mailed November 28, 2007 has been received and reviewed. In the Office Action, the Examiner, however, has:

(1) rejected claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and claim the subject matter of the invention;

(2) rejected claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63 under 35 U.S.C. § 102(e) as being anticipated by Streeter (U.S. Publication No. 2006/0247492); or, in the alternative;

(5) rejected claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63 under 35 U.S.C. § 103(a) as being unpatentable over Streeter in view of Wright et al. (U.S. Patent No. 5,306,296).

In connection with the present Response, claims 1 and 63 have been amended, and claims 5, 14-16, 18-19, 21-23, 25-26, 29-44, 54 and 58-62 have been withdrawn. No new subject matter has been added in connection with the amendments. Upon entry of the amendment, claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63 are currently pending in the present application.

In view of the above changes and the following remarks, the Applicants respectfully request reconsideration of the claims.

35 U.S.C. § 112

With respect to item (1), the Examiner has found claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63 to be indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. In particular, the Examiner has found the term “string-like” to be unclear.

Independent claims 1 and 63 have been amended to remove the term “string-like”.

Accordingly, Applicants submit that these claims, as amended, are now clear and concise, and are in condition for allowance.

35 U.S.C. § 102

With respect to item (2), the Examiner has asserted that claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63 are anticipated by Streeter.

Independent claims 1 and 63, directed to an implantable device, have been amended to now recite, among other things, that the restraining members extend along an opening of the ring from one point on the ring towards another point on the ring, and are designed *to minimize leaflet contact, so as to decrease blood flow turbulence and obstruction, while being spaced from one another in a manner that minimizes an occurrence of a prolapsing segment of either leaflets to slip through between adjacent restraining members*. Support for this amendment can be found, for example, in paragraphs 52, 55 and 56 of the present application.

In contrast, Streeter fail to teach or disclose a device whereby the restraining members are designed to minimize leaflet contact, in order to decrease blood flow turbulence and obstruction, while being spaced in such a manner from one another to minimize a prolapsing segment of the leaflet from slipping through between adjacent restraining members. In fact, nowhere within Streeter is there any such suggestion or teaching.

Since Streeter fail to teach restraining members having a design that can minimize leaflet contact in order to decrease blood flow turbulence and/or being spaced from one another so as to minimize the slippage of a prolapsing segment of a leaflet through between adjacent restraining members, Applicant submit that claims 1 and 63, as amended, are not anticipated by Streeter.

Claims 4, 6-8, 10, 12-13, 17, 20, and 27-28 are dependent from claim 1. As such, it follows that these claims are also not anticipated by Streeter.

It should be noted that claims 1 and 63 have also been amended to incorporate certain language within the preamble of each claim to now be part of the limitations of the “ring” element in each respective claim. If necessary, support for the amendment can be found, for example, in paragraph 52 and/or in Fig. 2B.

35 U.S.C. § 103

With respect to item (3), the Examiner has asserted that claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63, in the alternative, are unpatentable over Streeter in view of Wright et al.

As noted above, Streeter fail to teach or disclose a device whereby the restraining members are designed to minimize leaflet contact, in order to decrease blood flow turbulence and obstruction, while being spaced in such a manner from one another so as to minimize a prolapsing segment of the leaflet from slipping through between adjacent restraining members.

Likewise, nowhere within Wright et al. is there any teaching of a device having restraining members designed to minimize leaflet contact, in order to decrease blood flow turbulence and obstruction, while being spaced in such a manner from one another so as to minimize a prolapsing segment of the leaflet from slipping through between adjacent restraining members.

As such, a person skilled in the art reading Streeter and Wright et al. would not find it obvious to modify Streeter in the manner taught by Wright et al. to obtain the inventions set forth in claims 1, 4, 6-8, 10, 12-13, 17, 20, 27-28, and 63.

Accordingly, Applicant submits that these claims cannot be rendered obvious by Streeter in view of Wright et al.

Conclusion

In view of the foregoing remarks, Applicant submits that the pending claims are clear and concise, and are neither anticipated by Streeter nor rendered obvious by Streeter in view of Wright et al.

Accordingly, Applicant submits that the claims are in condition for allowance. Withdrawal of the pending rejections, and early and favorable reconsideration are respectfully solicited. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned at (617) 310-6000.

Applicant hereby petitions for a three (3) month extension of time for filing the present response, and authorizes the Examiner to charge \$525.00 to Deposit Account No. 50-02678 to cover the three month extension fee. Applicant does not believe that any additional extension or additional fee is required in connection with this Response. However, should any extension or fee be required for timely consideration of the present application, Applicant hereby petition for same and request that the extension fee and any other fee required for timely consideration of this application be charged to Deposit Account No. 50-02678, Reference 113002-010101.

Respectfully submitted,

GREENBERG TRAURIG, LLP
One International Place
Boston, MA 02110
Tel: 617/310-6000
Fax: 617/310-6001

/Chinh H. Pham/
Chinh H. Pham
Registration No. 39,329
Attorney for Applicants